

**IN THE UNITED STATES DISTRICT COURT
OF THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC, <i>Plaintiff,</i>	§ § § § § § §	
v.	§	Case No. 6:12-cv-499
TEXAS INSTRUMENTS, INC. <i>Defendant.</i>	§	LEAD CASE

BLUE SPIKE, LLC, <i>Plaintiff,</i>	§ § § § § § §	
v.	§	Case No. 6:12-cv-576
AUDIBLE MAGIC CORPORATION, ET AL. <i>Defendants.</i>	§	CONSOLIDATED CASE

MEMORANDUM ORDER ADOPTING
REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. On December 22, 2014, the magistrate judge recommended Defendant Facebook, Inc.'s Motion to Dismiss Separate claims Against Facebook's Technology (Dkt. No. 1618-1) be granted and that the Court clarify that any infringement claims against Facebook's facial recognition technology previously asserted in this case are dismissed without prejudice to assert in Cause No. 6:14cv618.

No objections were filed to the Report and Recommendation. Rather, on January 22, 2015, Facebook and Plaintiff Blue Spike, LLC filed a joint notice to the Court to clarify that Facebook is

no longer being treated as a supplier in this case, but instead as only a customer of Audible Magic's accused functionality. According to the parties, this is a result of the magistrate judge's December 22 recommendation. In the joint motion, Plaintiff clarified it is pursuing Facebook's accused products pertaining to its facial recognition technology and its 2014 offering of audio and TV recognition features and software in Cause No. 6:14cv987.

The Court is of the opinion that the findings and conclusions of the magistrate judge are correct. Therefore, the Court hereby adopts the Report of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, it is hereby

ORDERED that Defendant Facebook, Inc.'s Motion to Dismiss Separate claims Against Facebook's Technology (Dkt. No. 1618-1) is **GRANTED**. As recommended by the magistrate judge, the parties have clarified in their joint notice the following: (1) Facebook is no longer being treated as a supplier in Civil Action 6:12cv499-MHS-CMC, but instead as only a customer of Audible Magic's accused functionality; and (2) Plaintiff is pursuing Facebook's accused products pertaining to its facial recognition technology and its 2014 offering of audio and TV recognition features and software in Civil Action No 6:14cv987.

SIGNED this 24th day of April, 2015.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE